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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,561	03/23/2004	David L. Marvit	073338.0187 (04-50459) FLA	8346
5073	7590	03/22/2007	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/22/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/22/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/807,561	<b>Applicant(s)</b> MARVIT ET AL.	
	<b>Examiner</b> Regina Liang	<b>Art Unit</b> 2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/26/07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is responsive to amendment filed 1/26/07. Claims 1-20 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1-5, 7, 10-13, 16, 17, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lands (US 6,201,554) in view of Bartlett (US 6,573,883).

As to claims 1, 20, Lands discloses a motion controlled handheld device (Fig. 1) comprising:

a display (26) having a viewable surface and operable to generate a current image;  
a motion detection module (motion sensors 36, 38) operable to detect motion of the device within three dimensions and to identify components of the motion in relation to the viewable surface;

a display control module (Fig. 2) having a first mode of operation and a second mode of operation (col. 3, lines 40-48);

the display control module operable in the first mode of operation to monitor the motion of the device, to determine a location of the device resulting from the motion, and to modify the current image based on the resulting location of the device (zoom mode of operation as shown in Fig. 6 for example);

the display control module operable in the second mode of operation to monitor the motion of the device, to track movement of the handheld device using the motion detection module, to compare the tracked movement with the gestures to identify a matching gesture, to identify one of the commands associated with the matching gesture, and to modify the current image based on the identified command (page mode of operation as shown in Fig. 3, forward paging or backward paging correspond to the gesture commands); and

a mode selection module (buttons 28-34) operable to detect a mode selection trigger and to switch between the first mode of operation and the second mode of operation in response to detecting the mode selection trigger.

Lands does not disclose a gesture database and a gesture mapping for mapping each of the gesture an associated command. However, Fig. 3 of Bartlett teaches a motion controlled handheld device comprising a gesture database (catalog of gesture commands) maintaining a plurality of gestures, each gesture defined by a motion of the device with respect to a position of the device, a gesture mapping for mapping of each of the gestures to an associated command (col. 3, lines 34-37, col. 4, lines 53-60). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lands to have the gesture database and gesture mapping as taught by Bartlett so as to “enable use of different gesture commands” such that “a great range of gesture commands is possible given the use of different axes and angular directions of rotation for a variety of different patterns of movement” (col. 2, lines 39-45 of Bartlett).

As to claims 2-3, Lands teaches the mode selection trigger comprises a change in a state of the device and the change in the state of the device occurs when the device switches from a first application to a second application (col. 4, lines 13-16, 59-66 for example).

As to claim 4, the change in the state of the device occurs when the current image switches from a first image to a second image (e.g., see Figs. 3 and 6, changing the image from page mode to the image in zoom mode).

As to claim 5, Lands teaches activating a button 28 to select a page mode of operation, which reads on switching to a second mode (page mode) in response to detecting a first mode selection trigger (detecting by the CPU that the switch 28 is closed); activating a button 34 to select a zoom mode of operation, which reads on switching to a first mode (zoom mode) in response to detecting a second mode selection trigger (detecting by the CPU that the button 34 is closed).

As to claim 7, Lands teaches activating a button to select a particular mode of operation, which reads on the mode selection trigger comprises non-motion related input received using a user interface of the device.

Claims 10-13, 16, 17, which method claims corresponding to the above apparatus claims, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

4. Claims 6, 9, 15, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lands and Bartlatt as applied to claims 1, 10, 16 above, and further in view of Feinstein (US 2002-0190947).

As to claim 6, Lands as modified by Bartlatt does not disclose the mode selection trigger comprises one of the gestures. However, Feinstein teaches the mode selection trigger comprises a gesture ([0073]). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lands as modified by Bartlatt to use a gesture as the mode selection trigger since this eliminates the switches and provides for a more reliable activation of the operation mode ([0073] of Feinstein).

As to claims 9, 15, 19, Lands as modified by Bartlatt does not teach the device comprising three accelerometers. Feinstein teaches a motion controlled device comprising three accelerometers operable to detect acceleration along three axis. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lands as modified by Bartlatt to use three accelerometers as taught by Feinstein since the three accelerometers measure the acceleration of the device along three independent directions.

5. Claims 8, 14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lands and Bartlatt as applied to claims 1, 10, 16 above, and further in view of Lapidot (WO 01/86920).

Lands as modified by Bartlatt does not disclose the display control module has a third mode of operation and operable in the third mode of operation to disregard the motion of the device. However, Figs. 1, 5 of Lapidot teaches a motion controlled device having different modes of operation, one of the mode operation (N) is for neutral condition, the use of movements to control functions of the device or its display unit is disabled (this corresponds to the display control module operable in the third mode of operation to disregard the motion of the device).

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Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Lands as modified by Bartlatt to have a third mode of operation (neutral condition) as taught by Lapidot since this avoids accidental activation of the device by movement that is not intended by the user.

***Response to Arguments***

6. Applicant's arguments filed 1/26/07 have been fully considered but they are not persuasive.

Applicant's argument on pages 10-11 regarding claim 1 that Lands includes no disclosure of a module operable in a second mode to track movement of the device, are not persuasive.

Lands teaches to use the sensors 36 and 38 to detect (measure) the position (direction and tilt) of the device in the second mode (page mode of operation), in order to detect (measure) the position and the movement of the device, the sensors of Lands has to track the location/position or direction of the device, otherwise, how will the sensors measure the position of the device. Therefore, Lands discloses the sensors that measures the position and the movement of the device, this reads on module operable in second mode to track movement of the device as claimed.

In response to applicant's argument on page 11 that Lands does not disclose a mode selection module operable to switch between a first mode of operation and a second mode of operation, Lands teaches the control buttons 28-34 are the mode selection buttons for switching between four modes of operation (see col. 3, lines 40-53, col. 4, lines 46-50), the mode section buttons correspond to the mode selection module operable to detect a mode selection trigger as claimed.

Applicant's remarks regarding claim 3 on page 12 are not persuasive. Lands teaches the "CPU includes a memory for storing various software and application programs capable of being utilized by the hand-held device" (col. 4, lines 13-15), and Lands also teaches "the windows could be pages of a document or pages from different applications, such as a word processing programs and a spreadsheet. Further, a situation may arise where one window is a word processing document and another is video from a DVD driver or possibly a TV" (col. 4, lines 62-64. So, in Lands's device, when activating a volume control mode, the device should be running an application which has volume control such as TV application; when activating a zoom mode, the device is running an application which has document or text such as word processing program application, therefore, switching the modes of operation by activating the buttons, would also have to change the state of the device from a first application to a second application.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,



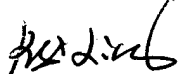
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Regina Liang  
Primary Examiner  
Art Unit 2674

3/15/07